# Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2015 Regular Session

#### **Part I: Measure Information**

Bill Request #: 253	
Bill #: HB 57	
Bill Subject/Title:	AN ACT relating to public procurement.
Sponsor: Representative Jeffery Donohue	
Unit of Government:	XCityXCountyXUrban-CountyXCharter CountyXConsolidated LocalXGovernment
Office(s) Impacted:	All governmental bodies issuing contracts for construction or maintenance of a public building or public work
Requirement: X	Mandatory Optional
Effect on Powers & Duties:	Modifies Existing X Adds New Eliminates Existing

#### **Part II: Purpose and Mechanics**

HB 57, the "Kentucky Buy American Act"; requires iron, steel, and manufactured goods (supplied as a primary component of a contract or subcontract in the construction or maintenance of public buildings, including schools, or public works) to be produced in Kentucky, unless the head of the governmental body in charge of the project issues a waiver.

Waivers may be issued if compliance is deemed to be inconsistent with the public interest; if the iron, steel, and manufactured goods needed are not produced in Kentucky; or if supplying iron, steel, and manufactured goods produced in Kentucky would "unreasonably" increase the cost of the overall contract.

If a waiver is issued; then the subject iron, steel, and manufactured goods are to be produced in America unless a second waiver is issued under the same criteria. The construction bid or proposal openings shall be delayed, if necessary, to accommodate requests for the second waiver.

### Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

## The fiscal impact of HB 57 on local governments is anticipated to be significant.

Kentucky local government construction outlays in 2012, excluding school and special districts, totaled \$722.1 million (2012 Census of Governments – based on survey data). Supplies, materials, and components are estimated to comprise about forty percent of the net value of construction work done in Kentucky (data extrapolated from the 2007 Economic Census). Based on the \$722.1 million, an overall price increase of one percent would increase annual local government construction costs by over seven million dollars.

If one assumes that local governments would seek a waiver from the requirement to buy Kentucky or American supplies, materials, and components if lower cost supplies, materials, and components were available from outside Kentucky or America, respectively; then, increased costs may be borne by local government due to factors including:

- 1. Firms based in Kentucky and America, already supplying materials, may charge higher prices due to the preference policy; and
- 2. Contractors may increase fees for ensuring compliance with the Kentucky Buy American Act; and
- 3. Delays may result in construction bid or proposal openings due to accommodating the request for a second waiver.

It is possible that the Kentucky Buy American Act's procurement requirements would generate additional local tax revenue to partially offset the increased costs at the aggregate level. However, localities in which the suppliers are based may differ from the localities executing the project, therefore, the additional tax revenues would not necessarily accrue to the locality bearing the cost of the project.

Data Source(s):

LRC Staff Economist's Office, Kentucky Finance and Administration

Cabinet, Kentucky League of Cities, National Conference of State

Legislators, National Association of State Procurement Officials "In-state

Preferences" Briefing Paper (August 2012)

**Preparer:** Katherine L. Halloran **Reviewer:** MCY **Date:** 2/3/15